

Construction trades training center; sale of homes. A nonprofit organization that purchases building lots, furnishes funds to a public vocational training center for use in its on-the-job home construction training program, sells the completed homes to the general public at fair market value, and uses the income from home sales to finance new projects and obtain vocational training equipment for the public school system, qualifies for exemption under section 501(c)(3) of the Code. The income from the sale of the homes is not unrelated business income.

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for charitable purposes.

The organization was formed by persons in the construction industry to assist a public vocational training center in providing on-the-job training for construction trade students attending the center, to assist public school graduates in securing employment in the construction trades, and to obtain equipment for the public school system for use in vocational training. The organization is governed by a board of directors comprised of the director of the vocational training center, one of its instructors, persons in the construction industry, and other interested business and professional people.

The on-the-job training consists of various construction projects, primarily residential homes. The organization purchases building lots and provides funds to the vocational training center enabling it to purchase the necessary equipment and supplies for construction of the homes.

The training program is conducted by a staff of instructors from the center. The training program supplements the ordinary high school curriculum, and covers a two-year period devoted primarily to practical, on-the-job experience. Approximately 70 percent of the construction work on each home is performed by the students. The other 30 percent of the work, which the students are not qualified to perform, is subcontracted out under competitive bidding to business entities unrelated to the organizers of the organization. None of the students or the instructors receive any financial compensation from the organization.

The organization anticipates that two homes will be completed each year. The completed homes are the property of the organization and are sold to the general public at fair market value.

The organization finances its activities from the sale of the construction projects. The income resulting from the excess of

receipts from the sale of the homes over costs is used solely to finance new projects and to provide the public school system with additional equipment and supplies.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term 'charitable' includes the advancement of education.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term 'educational' as including the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 1.513-1(d)(4)(ii) of the regulations provides that, ordinarily, gross income from the sale of products which result from the performance of exempt functions does not constitute gross income from the conduct of unrelated trade or business if the product is sold in substantially the same state as it is in on completion of the exempt function.

By providing building lots and funds for the purchase of construction equipment and supplies, the subject organization is engaging in activities that are essential to the conduct of the on-the-job training program of the vocational center. The activities of the organization are carried on through cooperation between representatives of the public school system and the construction industry and are uniquely designed to meet the needs of the vocational training center. Thus, even though the organization does not itself provide instructors for the program, its activities contribute importantly to the overall program of the vocational center and promote education within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations. Accordingly, the organization is operated exclusively for charitable purposes and qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

The completed houses that the organization sells are products of the performance of an exempt function and are sold in substantially the same state they are in upon completion of the exempt function. Only as many houses are built as are needed by the vocational center for its on-the-job training program. Thus, under section 1.513-1(d)(4)(ii) of the regulations, the construction activity is not unrelated trade or business. See Rev. Rul. 68-581, 1968-2 C.B. 250, and Rev. Rul. 73-128, 1973-1 C.B. 222. Therefore, the income derived by the organization from the sale of completed homes is not unrelated business income.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be

recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.